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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 308/2018**

NIRAJ KUMAR SHARMA & ANR Petitioners

Represented by: Ms.Swati Gupta, Advocate

versus

STATE (NCT OF DELHI) Respondent

Represented by: Ms.Nandita Rao, ASC for the State
with Insp.C.R.Meena and ASI Kishan
Pal Singh, PS New Ashok Nagar
Mr.Amit Kumar, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

08.10.2018

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1. Grievance of the two petitioners in the present petition is that the petitioners were friends with one Mr.Pritish however later Mr.Pritish started harassing petitioner No.2 by constantly following her and calling her at her work place and threatening her due to which she had to call Pritish's parents and tell about his actions. Thereafter Pritish went missing in April, 2017 and his whereabouts have not been found till date. Initially a complaint of missing was lodged by brother-in-law of Pritish on 25th April, 2017 followed by the complaint by the father of Pritish on which FIR No.517/2017 under Sections 365/34 IPC was registered at PS New Ashok Nagar. The petitioners who were no more friends with Pritish when he went missing though initially not suspected however in the complaint by the father on the

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basis of which abovenoted FIR was registered were made as suspects.

2. Learned counsel for the petitioners states that the petitioners are being subjected to continuous interrogation and harassment and the sword of the FIR is kept hanging on them without any supporting material or evidence but on the basis of all concoctive versions. They have already faced investigation for more than one year and nothing has been found out against them thus the FIR in question be quashed.

3. Learned Additional Standing Counsel for the State submits that the petitioners have cooperated in the investigation and to the extent that they have also undergone brain mapping test where their versions have been found to be truthful. Despite investigation for one year, no adverse material has come on record against the petitioners. She further states that in view of the investigation carried out, the petitioners are no more required to join the investigation at this stage however in future if any material comes forward to show the complicity of the petitioners, petitioners will be issued summons to join the investigation after approval from the DCP concerned. She clarifies that at this stage the petitioners are not accused in the abovenoted FIR and the proceedings pursuant thereto.

4. Since as noted above, the allegations in the complaint disclose commission of a cognizable offence of kidnapping and unless a missing person is found out, it cannot be said that no cognizable offence has taken place or even what offence/offences have taken place. Hence the FIR in question i.e. FIR No.517/2017 under Sections 365/34 IPC cannot be quashed merely because the complicity of the petitioners is not forthcoming in the investigation.

5. In view of the statement of learned Additional Standing Counsel for the State on instructions that till this stage the petitioners are not the accused in FIR No.517/2017, no further orders are required to be passed in favour of the petitioners except that in future if some evidence crops against the petitioners they will be given notice to join the investigation only after approval from the DCP concerned.

6. Petition is accordingly disposed of.

MUKTA GUPTA, J.

OCTOBER 08, 2018

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